

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW
YORK**

DANA EHDE, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

BROOKESTONE FUNDING, INC., a
New York registered company,

Defendant.

Civil Action No.: 1:24-cv-06676-NCM-VMS

**ANSWER TO CLASS ACTION
COMPLAINT**

ANSWER

The above-named Defendant, Brookestone Funding Inc., (“Brookestone” or
“Defendant”) by and through their counsel, Alexander Schachtel Esq., hereby says by way of
Answer to Complaint filed by Plaintiff Dana Ehde (“Ehde” or “Plaintiff”), the following:

THE PARTIES

1. Admitted.
2. Admitted.

JURISDICTION AND VENUE

3. Admitted.
4. Denied that any wrongful conduct occurred but admitted that Defendant is
incorporated in New York.

INTRODUCTION

5. Defendant cannot admit or deny this paragraph which does not constitute an
allegation of fact.

6. Defendant cannot admit or deny this paragraph which does not constitute an allegation of fact.

7. Defendant cannot admit or deny this paragraph which does not constitute an allegation of fact.

8. Defendant cannot admit or deny this paragraph which does not constitute an allegation of fact.

9. Defendant cannot admit or deny this paragraph which does not constitute an allegation of fact.

10. Defendant cannot admit or deny this paragraph which does not constitute an allegation of fact.

11. Defendant cannot admit or deny this paragraph which does not constitute an allegation of fact.

12. Defendant cannot admit or deny this paragraph which does not constitute an allegation of fact.

COMMON ALLEGATIONS

13. Admitted.

14. Admitted in part, Defendant obtains funding from a variety of sources.

15. Denied, this is taken out of context, the statement was made in a LinkedIn job post.

16. Admitted that the Defendant purchases leads for potential funding referrals.

17. Denied.

18. Denied, Defendant does not use prerecorded calls.

19. Denied, Defendant has never knowingly or otherwise called a customer on the

DNC.

20. Admitted that Defendant calls customers who are identified as prospects for business funding, otherwise denied that Defendant contacts “consumers.”

21. Denied that Defendant has any liability to Plaintiff.

PLAINTIFF EHDE’S ALLEGATIONS

22. Subject to receiving the actual and complete phone number Defendant may admit or deny.

23. Subject to receiving the actual and complete phone number Defendant may admit or deny.

24. Defendant lacks sufficient information to admit or deny this allegation.

25. Defendant lacks sufficient information to admit or deny this allegation.

26. Defendant lacks sufficient information to admit or deny this allegation.

27. Defendant lacks sufficient information to admit or deny this allegation.

28. Defendant lacks sufficient information to admit or deny this allegation but the likelihood is that this information is false because her number was listed on a commercial lead database.

29. Defendant lacks sufficient information to admit or deny this allegation but the likelihood is that this information is false because her number was listed on a commercial lead database.

30. Defendant lacks sufficient information to admit or deny this allegation but the likelihood is that this information is false because her number was listed on a commercial lead database.

31. Defendant lacks sufficient information to admit or deny this allegation.

32. Defendant lacks sufficient information to admit or deny this allegation.
33. Defendant denies this allegation.
34. Defendant denies this allegation.
35. Defendant denies this allegation.
36. Defendant denies this allegation.
37. Defendant denies this allegation.
38. Defendant denies this allegation.
39. Defendant denies this allegation.
40. Defendant denies this allegation.
41. Defendant denies this allegation.
42. Defendant denies this allegation.
43. Defendant denies this allegation.
44. Defendant denies this allegation.
45. Defendant denies this allegation.
46. Defendant denies this allegation.
47. Defendant denies this allegation.
48. Defendant denies this allegation.
49. Defendant denies this allegation.
50. Defendant denies this allegation, Defendant denies using any pre-recorded call system.
51. Defendant denies this allegation, Defendant denies using any pre-recorded call system.
52. Admitted.

53. Denied.

54. Denied.

CLASS ALLEGATIONS

55. Defendant denies that this matter is appropriately subject to certification for class action status.

56. Defendant denies that this matter is appropriately subject to certification for class action status.

57. Defendant denies that this matter is appropriately subject to certification for class action status.

58. Defendant denies that this matter is appropriately subject to certification for class action status.

59. Defendant denies that this matter is appropriately subject to certification for class action status.

60. Defendant denies that this matter is appropriately subject to certification for class action status.

FIRST CLAIM FOR RELIEF **(Violation of TCPA: 47 U.S.C. 227)**

61. This is not a factual allegation.

62. Denied.

63. Denied.

64. Denied.

SECOND CLAIM FOR RELIEF **(Violation of TCPA: 47 U.S.C. 227)**

65. This is not a factual allegation.

66. Denied.

67. Denied.

68. Denied.

69. Denied.

70. Denied.

71. Denied.

WHEREFORE, Defendant demands dismissal of all counts set forth in the Complaint, with prejudice, and with costs, expenses and counsel fees awarded.

SEPARATE DEFENSES

FIRST SEPARATE DEFENSE

The Complaint fails to state a claim and/or cause of action upon which relief can be Granted.

SECOND SEPARATE DEFENSE

Any and all injuries and damages allegedly sustained by Plaintiff were not foreseeable consequence of any acts or omissions of Defendant.

THIRD SEPARATE DEFENSE

Defendant did not breach any contractual duty or statutory duties owed to Plaintiff or undertake any intentional act with the intent to cause harm to Plaintiff.

FOURTH SEPARATE DEFENSE

At all relevant times, Defendant complied with all applicable laws.

FIFTH SEPARATE DEFENSE

No acts or omissions of Defendant were the proximate cause of any damages allegedly sustained by Plaintiff.

SIXTH SEPARATE DEFENSE

To the extent that the cause of action seeks damages for which payment was received or may be received from collateral sources, such damages are barred by the Collateral Source Rule.

SEVENTH SEPARATE DEFENSE

Defendant is not subject to jurisdiction in this forum.

EIGHTH SEPARATE DEFENSE

Plaintiff's claims are not properly subject to class certification, Plaintiff has failed to plead specific facts to support each element of the factors required under Fed. R. Civ. Pro. R. 23.

NINTH SEPARATE DEFENSE

Defendant has not committed any violation, knowing or otherwise, of the statutes which are alleged to have been violated in the Complaint.

JURY DEMAND

Defendant hereby demands a trial by jury on any issues which are so triable that have been pled or alleged in the Complaint.

DATED: November 15, 2024

By: /s/ Alexander Schachtel
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